

REMARKS/ARGUMENTS

I. Status of the claims

Claims 1-27 and 51-56, previously withdrawn from consideration by the Examiner, are canceled. Claims 28, 29, 31, 33, and 40 are amended. Claims 57-60 are added. Claims 34-36 were previously withdrawn from consideration by the Examiner but appear to have been examined (discussed further below). Claims 28-33, 37-50, and 57-60 (and possibly claims 34-36) are currently pending and under examination.

II. Support for the amendments

Support for the amendments can be found throughout the specification and claims as originally filed. For example, support for oligonucleotides comprising SEQ ID NOs: 4 and 12 as the first and second oligonucleotides, respectively, can be found in Table 1, pages 28-29 of the specification. Support for an oligonucleotide comprising SEQ ID NO:20 as the third oligonucleotide can be found in Table 5, page 38 of the specification. No new matter is added by the amendments.

III. Interview

Applicants thank the Examiner for the helpful phone interview on February 25, 2008. Amendments to claim 28, such as are presented herein, were discussed. The Examiner kindly agreed that the amendments sounded reasonable but withheld a final decision until the claims were presented in an Amendment.

IV. Consideration of claims 34-36

Applicants thank the Examiner for kindly rejoining claims 37-39 with the examined claims. It appears that claims 34-36 were also rejoined and examined by the Examiner, but Applicants request clarification on this point as the Office Action appears to state that only claims 37-39 were rejoined. Page 1 of the Office Action, however, states that claims

"28-50" are under examination, indicating that claims 34-36 were rejoined. For clarity on the record, Applicants request that the Examiner also rejoin claims 34-36.

As amended, claim 28 no longer recites "hybridization language." Amended claim 28 now recites that each of the three oligonucleotides comprise specific, degenerate, nucleotide sequences: SEQ ID NO:4, SEQ ID NO:12 and SEQ ID NO:20. These sequences encompass oligonucleotide sequences already acknowledged as allowable by the Examiner. For example, the Office Action on page 4 states that the claims "would be allowable if claim 28 specified SEQ ID NO: 15 or 74 as the second oligonucleotide...." Rejoined claims 37-39 are directed to aspects of the invention where the second oligonucleotide comprises SEQ ID NO: 74. Previously withdrawn claims 34-36 are directed to aspects of the invention where the second oligonucleotide comprises SEQ ID NO: 15. SEQ ID NO:15 is completely encompassed by SEQ ID NO:74 (SEQ ID NO:74 includes two additional 5' nucleotides that SEQ ID NO:15 does not have). Because the Examiner has already acknowledged that claims directed to SEQ ID NO: 15 or 74, in combination with other sequences, would be allowable, and because the pending independent claim encompasses these sequences, Applicants respectfully request that the Examiner rejoin claims 34-36 with those claims "under consideration" and ideally allow these claims with the other pending claims in the next action.

V. Rejection under 35 USC § 112, second paragraph

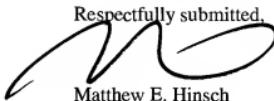
Claims 28-50 were rejected as allegedly indefinite for reciting that the claimed oligonucleotides hybridize to a specific recited sequence. The Examiner also indicated that if the claims lacked the hybridization language, and included specific oligonucleotide sequences, they would be allowable.

While Applicants disagree that the hybridization language is indefinite, and reserve the right to pursue such claim language in a continuation application, to expedite prosecution of the present application, the pending claims are amended to cancel the hybridization language. As this is the only rejection in the Office Action, Applicants respectfully request withdrawal of the rejection and allowance of the application.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

Matthew E. Hinsch
Reg. No. 47,651

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
MEH:meh
61308623 v1